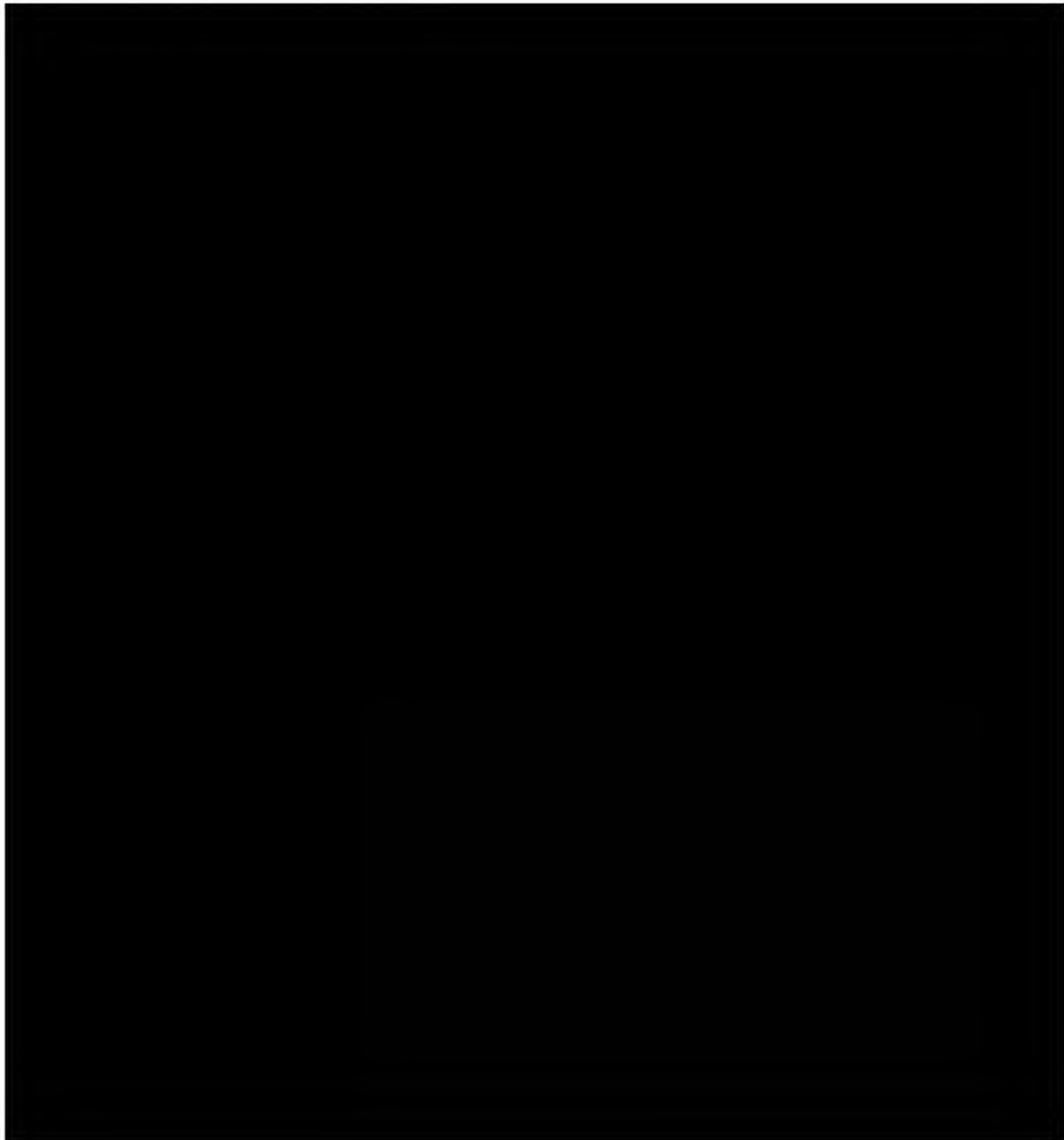


23 January 1963

MEMORANDUM FOR THE RECORD

25X1A



It suggests a curriculum which the Department of Defense endorses and incorporates in requests for proposals to various institutions to establish and conduct such training. Company A shall not be permitted to bid on this procurement.

Example C: Company A prepares a feasibility study of a new weapons system without proposing in detail the characteristics of a possible final device. It may bid to produce the system or components thereof.

4. If a contractor agrees to conduct studies or provide advice concerning a system, which work requires access to proprietary data of other companies, the contractor must agree with such companies to protect such data from unauthorized use or disclosure so long as it remains proprietary. In addition, the contractor shall not be permitted to utilize the data in supplying the system, or components thereof, procured, either by formal advertising or negotiation, as a direct result of that study or advice, or in performing for the Department of Defense additional studies in the same field which are obtained competitively.

*protect
prop.
data*

Explanation: Proprietary data is information considered so valuable by its owners that it is held secret by them and their licensees. Where a contractor must obtain such data from others for purposes of the study, and can obtain it by the leverage of the Department of Defense contract, he will gain an advantage over other companies unless there are restrictions upon his use of the data. Such restrictions are necessary both to protect the data, and to encourage companies to furnish it to contractors for the necessary performance of the Department of Defense contract. The rule is not intended to protect proprietary data furnished voluntarily by companies without limitations as to use, or data which falls into the public domain.

Example A: Company A is selected to study the use of lasers in military communications. The Department of Defense will request that firms doing research in the field make proprietary data available to A. In order to receive the contract, A must agree with such firms

to protect any proprietary data it obtains, so long as it remains proprietary, and shall not be permitted to utilize the data in supplying any lasers to the Department of Defense. Furthermore, while A could not receive a competitively awarded contract to perform additional studies of lasers using such data, it may receive a sole source contract for such studies.

Review and Waiver

The contracting officer is responsible for applying these rules to contracts under his cognizance. If the prospective contractor disagrees with his decision, the contracting officer shall report his decision, and the contentions of the contractor, through channels to an Assistant Secretary of a Military Department or the Director of a Defense Agency for decision.

Any of the prohibitions imposed by these rules may be waived by an Assistant Secretary of a Military Department or the Director of a Defense Agency if he determines that a failure to waive the prohibition will be prejudicial to the best interests of the Government.